

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SAUNDEURS SHILOFF, an individual,

Plaintiff,

vs.

PAUL THOMPSON and JANE DOE THOMPSON,
husband and wife,

Defendants.

No. 1:20-cv-01164-KK-CG

**RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION FOR EXTENSION OF
TIME TO ANSWER AND FOR SUMMARY JUDGMENT OR DISMISSAL [DOC 3]**

Plaintiff Saundeurs Shiloff (“Plaintiff”), by and through undersigned counsel, respectfully requests that the Court enter an order denying the above-referenced Motions filed by Defendants [Doc. 3] (the “Motion”). This Response is supported by the following Memorandum and all filings in this matter, which are all hereby incorporated by reference.

MEMORANDUM

I. Response to Motion for Extension of Time to Answer

Plaintiff vehemently opposes Paul Thompson’s (“Defendant”) Motion to Extend Time to Answer. While Plaintiff can empathize with Defendant’s purported plight regarding being a single father, the fact remains that Defendant’s intentional acts toward Plaintiff is the sole, direct proximate cause that this litigation was instigated.

Plaintiff attempted to settle this matter amicably with Defendants prior to filing but Defendant failed and refused to respond to all such attempts at a pre-litigation resolution. Accordingly, Plaintiff had no alternative but to proceed with the instant matter. Further, Defendant

avoided service of process of this matter by lying to the process server by initially stating that he was someone else when the process server made initial contact with him at 804 Chelwood Park Blvd NE, Apt C, Albuquerque, NM 87123 (“Chelwood address”) ¹. *See*, email from Tony Levey dated November 18, 2020, attached hereto as **Exhibit A**. Undersigned counsel thereafter instructed the process server to attempt service at an alternate address (Angelina Place address) and the occupant of that address confirmed to the process server that the Defendant did, in fact, reside at the Chelwood Address, where the server attempted initially. *See*, email from Tony Levey dated November 23, 2020, attached hereto as **Exhibit B** and email from Marlo Fontana dated November 23, 2020, attached hereto as **Exhibit C**. The process server then went back to the Chelwood Address and drop served the documents on Defendant. *Id.*, *see also*, email from Tony Levey dated November 23, 2020, attached hereto as **Exhibit D**.

Moreover, COVID-19 is no excuse for requesting an unlimited time for an extension after Defendant has been aware of the lawsuit since mid-October, and then attempted to evade service of process. Furthermore, the legal community in almost every state is working remotely, and lawyers have been doing consultations by phone long before COVID-19.

Accordingly, Defendants Motion for Extension of Time to Answer should be denied. However, to the extent the Court is inclined to grant this Motion, Defendant’s time to respond should be no later than 10 days after the entry of the Court’s ruling on the Motion.

II. Response to Motion for Summary Judgment-Dismissal

Defendant’s Motion for Summary Judgment and Motion to Dismiss is lacks any substance whatsoever, fails to comply with the most basic procedural rules, and highlights *nothing but* the

¹ This is the same address Defendant lists as his address in his Motion.

existence of genuine issues of material facts. Defendant is not entitled to judgment as a matter of law.

As the Court is aware, naming unknown defendants through a “Doe” designation is not a “clear abuse of the law” but, rather, a practice utilized throughout litigation as a required placeholder until the identity of the unknown defendant can be ascertained, especially in community property states when it is uncertain whether or not the defendant is or was married at any relevant time.

Although Defendant appears to answer/comment on certain allegations in the Complaint, Motion at ¶ 3, he is only denying he is not a producer of electronic dance music (“EDM”),² the balance of the Motion is a direct attack on undersigned counsel³, containing nothing but misleading rhetoric impugning undersigned counsel’s character and his prior firm that has no bearing or relation to the facts in this case. Suffice it to say, since the undersigned counsel was admitted to the practice of law in Arizona in 2008, the undersigned was and continues to be a member in good standing of the State Bar of Arizona, a pre-requisite to be admitted to practice before this Court.

Accordingly, Defendants Motion for Summary Judgment and Motion to Dismiss should also be denied.

² The Complaint, and Defendant’s Motion for that matter, clearly state “Defendant *appears to be* a producer of EDM.....” However, Defendant has a Facebook.com page dedicated to his activities as a producer or “DJ” of EDM. “Guided by evil motives” is a universally accepted litigation terminology to emphasize a type of malice.

³ Curiously, this attack is eerily similar to the types of harassment by Defendant that Plaintiff complains of in the Complaint and appears to be Defendant’s go-to response when confronted with adversity.

RESPECTFULLY submitted this 4th day of December, 2020.

RM WARNER, PLC

By: /s/ Daniel R. Warner
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR EXTENSION OF TIME TO ANSWER AND FOR SUMMARY JUDGMENT OR DISMISSAL [DOC 3]** was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

The undersigned hereby further certifies that a copy of the foregoing was also mailed and emailed to Defendant in this action on December 4, 2020, addressed as follows:

Paul Thompson
804 Chelwood Park Blvd., NE Apt C
Albuquerque, NM 87123
Email: pthompsonmail@gmail.com
Defendant in Pro Per

DATED this 4th day of December, 2020.

/s/ Daniel R. Warner
Daniel R. Warner, Esq.
Federal Bar No. 20-207